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Of Attorneys for Defendant

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

(Portland Division)

TERRY W. EMMERT,

Plaintiff,

v.

STEWART TITLE GUARANTY
COMPANY, a Texas corporation,

Defendant.

Civil No.

CV '11 - 0003 ST

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(b)
(DIVERSITY)**

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF OREGON:

PLEASE TAKE NOTICE that Defendant Stewart Title Guaranty Company hereby
removes to this Court the state court action described below. There are no other defendants to
join in this removal.

///

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ORIGINAL

1. On October 7, 2010, an action was commenced in the Circuit Court of the State of Oregon for the County of Clackamas ("Clackamas County Circuit Court"), entitled *Terry W. Emmert v. Stewart Title Guaranty Company*, as Case Number CV10100153. A copy of the complaint is attached hereto as Exhibit A.

2. Plaintiff filed an amended complaint in the above-captioned Clackamas County Circuit Court action on November 30, 2010. A copy of the amended complaint is attached hereto as Exhibit B.

3. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b), which provides that a notice of removal must be filed within 30 days after a defendant receives, by service or otherwise, the initial pleading. The first date upon which Defendant received a copy of the initial pleading was December 2, 2010, when Defendant was served by Plaintiff with a copy of the amended complaint and a summons. A copy of the affidavit of service of the summons and amended complaint is attached hereto as Exhibit C.

4. No further proceedings have been had in the Clackamas County Circuit Court as of the date of filing of this removal.

5. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b) and 28 U.S.C. § 1446, in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. Complete diversity of citizenship exists in that: Plaintiff Terry W. Emmert is a citizen of the State of Oregon because he is an individual residing in Clackamas County, Oregon, as alleged in paragraph 1 of the amended complaint. Defendant Stewart Title Guaranty Company is incorporated and has its principal place of business in Texas, as alleged in paragraph 2 of the complaint. Defendant is a citizen of the State of Texas. Defendant was a citizen of the State of Texas when this action was commenced, and remains a citizen of the State of Texas at

present while this Notice of Removal is being filed. Defendant is not now, nor ever has been, a citizen of the State of Oregon. No other plaintiffs or defendants exist in this matter.

7. The amount in controversy exceeds \$75,000 because Plaintiff seeks specific relief for breach of contract and unjust enrichment and alleges monetary damages in the amount of \$1,119,000.00, as alleged in paragraphs 14 and 22, and in the prayer for relief, in the amended complaint.

8. Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removal of the above-captioned state court action to this Court is appropriate.

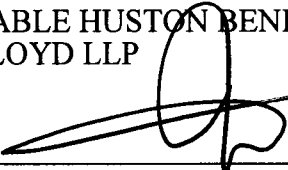
9. Pursuant to 28 U.S.C. § 1441(a), removal is made to this Court as the district and division embracing the place where the state action is pending.

10. Defendant has not yet appeared in state court to defend this matter, and by filing this Notice of Removal, Defendant is not waiving any claim or defense, including but not limited to any challenges to personal jurisdiction, venue, or service.

11. Defendant is providing to Plaintiff, through its counsel, written notice of the filing of this Notice of Removal. Furthermore, Defendant is filing a copy of this Notice of Removal with the Clerk of the Clackamas County Circuit Court where the action is currently pending.

DATED: January 3, 2011

CABLE HUSTON BENEDICT HAAGENSEN &
LLOYD LLP



G. Kevin Kiely, OSB No. 833950
Jon W. Monson, OSB No. 102650
Of Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(b) (DIVERSITY)** was served on:

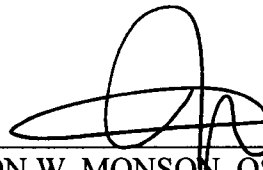
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Of Attorneys for Plaintiff Terry Emmert

by the following indicated methods or methods:

- ☐ **ELECTRONIC MAIL – CM/ECF** notice of electronic filing.
- ☐ by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below.
- ☒ by causing a full, true and correct copy thereof to be **HAND-DELIVERED** to the party, at the address listed above on the date set forth below.
- ☐ by causing a full, true and correct copy thereof by **ELECTRONIC MEANS** to the party, at the party's last known email address listed above on the date set forth below.
- ☐ by sending a full, true and correct copy thereof via **OVERNIGHT COURIER** in a sealed, prepaid envelope, addressed to the Party as shown above, at the last known address of the attorney, on the date set forth below.
- ☐ by **FAXING** a full, true and correct copy thereof to the party, at the fax number shown above, which is the last-known fax number for the party's office, on the date set forth below.

DATED this 3rd day of January, 2011.



JON W. MONSON, OSB No. 102650
Of Attorneys for Defendant Stewart Title
Company